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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,141	11/03/2003	Vyshislav Ivanov	3769-019 CON	3725
23440 7590 05/13/2008 GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 10016-0601				
EXAMINER				
MCGRAW, TREVOR EDWIN				
ART UNIT		PAPER NUMBER		
3752				
MAIL DATE		DELIVERY MODE		
05/13/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/700,141

**Applicant(s)**

IVANOV ET AL.

**Examiner**

Trevor E. McGraw

**Art Unit**

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 61-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-64, 66 and 67 is/are rejected.
- 7) ☒ Claim(s) 65 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/25/2008 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 61-64 and 66-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kochenour (US 4,090,668) in view of Ouellette et al (US 6,281,649).

In regard to Claims 61-64, and 66-67, Kochenour teaches an apparatus for cleaning and deicing a vehicle window where the apparatus comprises a reservoir (30) that contains a washing fluid, a vessel (50 or 52) having and inlet (60) through which the

washing fluid is received from the reservoir and an outlet (62) through which the fluid is discharged where at least one spray head (80) is in fluid communication with the outlet through which the fluid is sprayed onto at least one vehicle window (Column 4, lines 22-37) and at least one windshield wiper (12, 22) for wiping the window where the windshield wiper actuation system includes a motor (20; Column 3, lines 27-32) that actuates the windshield wiper (12, 22) and a controller (110; Column 4, line 67-Column 5, line 10) to control at least one of the spray heads (80) and the windshield wiper (12, 22) based on the torque of the motor (20; Column 3, lines 27-32; motor controls the wiper blade sweep motion).

The apparatus of Kockenour also teaches where the windshield wiper (12, 22) is operative to wipe the window between two limits of travel where the traveling sweeping motion of wiper blades controlled by the motor for back and forth motion in both a clockwise and counterclockwise direction and the controller is operative to change the direction of at least one windshield wiper without reaching at least one of the two limits of travel by switching the speed at which the motor actuates the windshield wipers where the controller further is capable of synchronizing operation of at least one spray head (80) with the movement of at least one windshield wiper (12, 22; See Figure 2 where the spray heads are in the windshield wiper and cooperate with one another when the wiper is motioned in the sweeping clockwise and counterclockwise movements).

The apparatus of Kochenour further teaches where the reservoir (30) has a heating element (104) that is disposed in the vessel (50 or 52) for heating the fluid in the vessel (50 or 52).

However, Kochenour fails to teach where the controller is operative to control at least one of the spray heads and the at least one windshield wiper based on a measured value of a torque of the motor (motor of windshield wiper) received by the controller.

On the other hand, Ouellette et al teach having a controller that is operative to control at least one spray head and at least one windshield wiper based on a measured value of a torque of the motor (motor of windshield wiper) received by the controller (see column 4, line 23 thru column 6, line 58).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the present invention was made to provide the controller of Kochenour with the control system that operates on a measured value of torque as taught by Ouellette et al in order to provide a manner in which a wiper system can better control spraying as determined by the controller to compensate for the speed of a car traveling at various velocities.

#### ***Terminal Disclaimer***

The terminal disclaimer filed on 04/25/2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,164,564 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Allowable Subject Matter***

Claim 65 is objected to as being dependent upon a rejected base claim, but appears to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

#### **Rejection under 35 USC § 102**

Applicant's arguments with respect to claims 61-64 and 66-67 have been considered but are moot in view of the new ground(s) of rejection.

#### **Double Patenting Rejection**

Applicant's arguments, see the approved terminal disclaimers, filed 04/25/2008, with respect to the double patenting rejection have been fully considered and are persuasive. The rejection of Claims 61 and 65 has been withdrawn in view of the approved terminal disclaimer filed on 04/25/2008 (approved 04/28/2008).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carpenter et al (US 4,431,954), Gille et al (US 4,585,980).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trevor McGraw whose telephone number is (571) 272-7375. The examiner can normally be reached on Monday-Friday (2nd & 4th Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/T. E. M./  
Examiner, Art Unit 3752  
/Len Tran/

Supervisory Patent Examiner, Art Unit 3752